

DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 24.351.215) ON PROPOSED AMENDMENT
license fee schedule for weighing)
and measuring devices)

TO: All Concerned Persons

1. On June 22, 2006, at 10:00 a.m., a public hearing will be held in room 471 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Weights and Measures Bureau (bureau) of the Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or who need an alternative accessible format of this notice. If you require an accommodation, contact the bureau no later than 5:00 p.m., June 16, 2006, to advise us of the nature of the accommodation you need. Please contact Jack Kane, 301 South Park Avenue, P.O. Box 200516, Helena, Montana 59620-0516; telephone (406) 841-2241; Montana Relay 1-800-253-4091; TDD (406) 444-0532; Facsimile (406) 841-2060; e-mail jkane@mt.gov.

3. The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

24.351.215 LICENSE FEE SCHEDULE FOR WEIGHING AND MEASURING DEVICES (1) Measuring device license fees are as follows:

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|--|--------------------------|
| (a) each gasoline meter, diesel meter, compressed natural gas dispenser or fuel oil meter with a listed maximum delivery rate of 20 or less gallons per minute (gpm) | \$46 <u>21</u> |
| (b) each petroleum vehicle tank meter or stationary petroleum meter with a maximum listed delivery rate of between 130 gpm and 20 gpm | 55 <u>70</u> |
| (c) each petroleum vehicle tank meter or stationary petroleum meter with a maximum listed delivery of over 130 gpm | 65 <u>83</u> |
| (d) each liquefied petroleum gas (LPG) meter | 80 <u>102</u> |
| (2) remains the same. | |

AUTH: 30-12-202, 82-15-102, 82-15-105, MCA

IMP: 30-12-203, 82-15-105, MCA

REASON: The Weights and Measures Bureau (bureau) operates as a special revenue program funded entirely by license fees assessed on all weighing (scales) and measuring (pumps and meters) devices in commercial use. No general fund monies are available or used for the bureau's operations. It is reasonable and

necessary to amend ARM 24.351.215 in order to keep license fees commensurate with the costs of the bureau's regulation of measuring devices.

Over the past ten years, the bureau's revenue from device license fees has increased 19.4% due to additional devices (primarily retail gasoline pumps) being placed in service. During this same period, personnel, operating, and equipment expenses have increased 36.5% with no increase in the number of bureau employees. Since FY03, even though the bureau has never exceeded its statutorily authorized appropriation, the bureau has expended more money than it has taken in. These past shortfalls have been made up through carry forward from previous years, vacancy savings, and an almost complete elimination of replacement equipment expenditures. However, due to an increase in personnel services as well as increased expenses for motel rooms, meals, gasoline, diesel fuel, and equipment maintenance, the bureau can no longer afford to operate without a fee increase. The department last imposed a fee increase in July 2000.

For FY06, the difference between the bureau's appropriation amount of \$880,678 and the anticipated device fee income of \$690,398 is \$190,280. Since the bureau dedicates one-half of its personnel and monetary resources toward testing and inspecting pumps and meters, approximately one-half of the total shortfall should be made up through a fee increase on measuring devices. The fees for measuring devices are all being increased approximately 27%, rounded up to the nearest whole dollar. The second half of the shortfall will be addressed in the 2007 legislative session as the bureau intends to submit legislation to statutorily increase fees for weighing devices. Approximately 1,000 licensed petroleum entities will be affected by this fee increase and an estimated increase in annual revenue of \$102,481 is projected.

There is also reasonable necessity to amend the authority cites while the rule is otherwise being amended, in order to fully identify the sources of the bureau's rulemaking authority.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted by mail to Jack Kane, Bureau Chief, Weights and Measures Bureau, Business Standards Division, Department of Labor and Industry, P.O. Box 200516, Helena, Montana 59620-0516, by facsimile to (406) 841-2060, or by e-mail to jkane@mt.gov and must be received no later than 5:00 p.m., June 30, 2006.

5. An electronic copy of this Notice of Public Hearing is available through the department and program's website on the World Wide Web at <http://mt.gov/dli/bsd/wm/index.asp>, in the Rules Notices section. The department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep

its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all administrative rulemaking proceedings of the Weights and Measures Bureau or other administrative proceedings. Such written request may be mailed or delivered to the Weights and Measures Bureau, 301 South Park Avenue, P.O. Box 200516, Helena, Montana 59620-0516, faxed to the office at (406) 841-2060, e-mailed to jkane@mt.gov or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

8. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 22, 2006